



Summary

- 1.- Decision 4/2012, dated April 25th, of Banco de España, on regulations related to notification by Spanish residents of economic transactions and statement of financial assets and liabilities related to foreign countries.**
- 2.- Final dispositions of the Companies Tax Law, amending Personal Income Tax Law approved by Royal Decree Law 18/2012, dated 11th May, on reorganization and sale of real state assets owned by financial entities.**
- 3.- Jurisprudence: Courts impede Tax Authorities to revise on prescribed exercises.**
- 4.- Royal Decree-Law 19/2012, dated 25th May, of urgent measures to liberate business and certain services.**

Decision 4/2012, dated April 25th, of Banco de España, on regulations related to notification by Spanish residents of economic transactions and statement of financial assets and liabilities related to foreign countries.

On 6th March it was published in the Official Gazette (BOE) the new resolution of Banco de España that will regulate the communications of economic relations between residents and non residents, as well as the movement of funds of foreign residents.

This resolution derogates the former resolution 3/2006, dated 28th July, but it will not come into force until 1st January 2013. Therefore, it will be applicable to declarations made next year.

The main features in relation to the former applicable regulation 3/2006 are those dealing with periodicity of information and applicable exceptions related to the movement of funds

in foreign accounts owned by residents.

Before, it depended on the number of operations carried out during a month, in order to determine whether information needs to be provided to Banco de España or not.

In this new regulation, it will be decided according to the amounts transferred during prior exercise, as follows:

- Monthly information is required when in prior exercise amounts above 300 million Euros were transferred.
- Quarterly information is required when operations during prior exercise are equal or above 100 million Euros, but below 300 million Euros.
- Yearly information is required when operations during the prior exercise are below 100 million Euros.



Likewise the information to be provided is simplified. In case transactions are below 50 million Euros during the prior exercise, the information will be limited to the initial and final statement.

Additionally, information will be provided online.

Final dispositions of Royal Decree-Law 18/2012, dated 11th May, on reorganization and sale of real state assets of financial entities.

In Royal Decree-Law 18/2012, dated 11th May, on reorganization and sale of real state assets of financial entities, it has been incorporated some amendments to residents and non residents personal income tax laws, aiming to encourage the transmission of real state.

These amendments introduce an exemption of 50% on positive earnings derived from the transfer of urban real state.

The following requisites are applicable:

- That the assets are urban real state.
- Acquired for a consideration.
- Transferred between 12th May 2012 and 31st December 2012.
- For Company's Tax, the real state needs also to be fixed asset for sale.
- For Personal Income Tax of non Residents, the earnings need to have been obtained without the intervention of a permanent establishment in Spain.

Such exemption will not be applicable when:

- The asset has been transmitted to a person linked to the transferor according to article 42 of Spanish Commercial Code.
- The asset has been transmitted to the married couple or any other person related as family in straight or collateral line, either by blood or in law, up to second grade.

Jurisprudence: Justice impedes Tax Authorities from examining prescribed exercises.

On 21st July 2011, the Audiencia Nacional denied the right to determine the amounts owed by companies, as well as the negative tax bases of prescribed exercises, even if they affect tax years which are not prescribed.

This Judgment determined that Tax Authorities cannot inspect prescribed exercises.

Recently, Supreme Court has clarified that among faculties of Economic-Administrative Courts (TEAR and TEAC), which depend on Tax Authorities, is not included the faculty to make inspections or to amend their material mistakes.

The Supreme Court does not accept the retroaction or repetition agreed by the TEAC, and applies for the first time the doctrine of TEAC being an advisory body in the relevant



case of VAT liquidations. This may be the beginning of future claims before Courts of affected taxpayers.

Royal Decree-Law 19/2012, dated 25th May, of urgent measures to liberate business and certain services.

On 28th May 2012 will enter into force Royal Decree-Law 19/2012, dated 25th May, or urgent measures to liberate business and certain services.

The purpose of this Royal Decree is to promote and ease the commercial activity of minor entities as well as certain services through the elimination of charges and administrative restrictions which affect the beginning of commercial activities, and particularly eliminating municipal licenses related to commercial entities, their facilities, and certain prior works.

It will be applicable to retailers, and providers of certain services, rendered through permanent establishments located in the national territory, with a surface before clients below 300 square meters.

Procedures begun before the date in which the Royal Decree will come into force, aiming to obtain licenses or permits mandatory according to prior regulations will be carried out and resolved according to the regulations applicable when the request for the license or permit was filed. However, taxpayers may desist from the request made, and file a new one, that will be carried out according to this new regulation.

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